THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO.25803 OF 1995

DATED:21.11.2006

BETWEEN:

S.Seshachalam … Petitioner.
And another

And

Govt., of A.P., rep by
Secretary to Government,
Food and Civil Supplies Department,
Hyderabad
and others.
… Respondents.

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO.25803 OF 1995

ORDER:

The petitioners were appointed on daily wage basis in the third respondent Corporation as Junior Assistants in February 1986 and September 1985 respectively. In the year 1991 the third respondent was merged in the second respondent Corporation. The petitioners aver that for the post of Junior Assistant in the third respondent Corporation, the qualification required was Matriculation and for the post of Typist, the qualification required was a pass in Type Writing Higher. On the date of their first appointment on daily wage basis, they were qualified to be appointed on regular basis.

The Government of Andhra Pradesh issued G.O.Ms.No.448 dated 16.6.1989 whereunder the services of certain persons shown in annexure 1 and 2 were regularized as Assistants Grade-III. Persons by name M.Srinivasadas, S.S.R.Prasada Rao, A.S.R.Somayajulu, V.Venkatratnam, G.Kondal Rao, Ch.Raghu Kumar, R.Madhusudhan and K.Rama Rao were among the persons so regularized possessing qualification like Matriculation and Intermediate. However, para-3 (b) of the said G.O. provided that the employees who do not fulfill the qualification prescribed shall acquire the qualification within two years from the date of issue of those orders and in case they fail to acquire

the qualification they shall not be eligible for future promotion.

As the petitioners' services were not regularized they filed W.P.No.15847 of 1990 along with some other persons seeking the relief of regularization of their services in terms of G.O.Ms.No.448 dated 16.6.1989. The learned Single Judge disposed of the said writ petition with a direction to consider their claims in terms of G.O.Ms.No.212 dated 22.2.1994 which came into operation during the pendancy of the said writ petition. In pursuance of the said directions, the second respondent Corporation considered the claims of the petitioners along with others and issued G.O.Ms.No.466 Food and Civil Supplies (III) Department, dated 7.11.1995. The petitioners' services were regularised in the said G.O., in the category of Attender, as according to the second respondent they are not eligible for regularization in the category of Assistant Grade-III.

Assailing the action of the second respondent Corporation in not regularizing their services as Assistant Grade – III, the present writ petition is filed.

The second respondent filed a counter affidavit wherein it is mentioned, inter alia, that as G.O.Ms.No.448 was replaced by G.O.Ms.No.212 dated 22.4.1994 and as per the directions given by this Court, their cases were considered for regularization in terms of the said G.O. It has been specifically averred that for the post of Junior Assistant/Assistant Grade-III the qualification required was Graduation both in the-then third respondent Corporation, as well as in the Second respondent Corporation and that as the petitioners do not possess the qualification of Graduation, their services could not be regularized as Assistant Grade-III.

It is not in dispute that condition No.1 in G.O.Ms.No.212 dated 22.4.1994 prescribes that persons who seek regularization should possess the qualification prescribed as per the Rules in force as on the

date on which his/her service has to be regularized. Sri Ananda Rao, the learned counsel fairly admits that at the time of consideration of the petitioners' case they did not possess Graduation qualification. He however, submitted that as far as first petitioner is concerned, he acquired B.Com., qualification in the year 1997 and subsequently he was promoted to the post of Assistant Grade-III in the year 2001 and as Assistant Grade-I in the year 2006. As regards the second petitioner he has not acquired the qualification of Graduation. But however, he says that in view of the interim direction granted by this Court in the writ petition he is being continued as Assistant Grade-III.

Having regard to the fact that the petitioners at the relevant point of time did not possess the qualification of Graduation required for the post of Assistant Grade-III, the action of the second respondent in not appointing them as Assistant Grade-III cannot be said to be illegal. As already noted above, one of the conditions required to be fulfilled in G.O.Ms.No.212 dated 22.4.1994 is, one must possess the qualification required for the post against which regularization is sought for as it is not in dispute that Graduation is the qualification for the post of Assistant Grade-III and as the petitioners did not possess the said qualification, the impugned G.O., cannot be said to suffer from any illegality. In view of the same, the petitioners have not made out any case for granting the relief.

However, in the light of the fact that the second petitioner is continued as Assistant Grade-III, it is open to the second petitioner to make a representation for consideration of his case for his continuance in the said post having regard to the long service rendered by him as Assistant Grade-III and the second respondent shall consider his case and take a decision in this regard.

Subject to the above observation, the writ petition is dismissed. No order as to costs.

21.11.2006.

Mdaa